

REMARKS/ARGUMENTS

Claims 1-5, 7, 8, 12-14, 16-18, 22, 23 and 25 were presented for examination and are pending in this application. In a Final Official Office Action dated October 9, 2007, claims 1-5, 7, 8, 12-14, 16-18, 22, 23 and 25 were rejected. The Applicant thanks the Examiner for his consideration and addresses the Examiner's comments concerning the claims pending in this application below.

Applicant herein amends claims 1, 18 and 22 to better place the claims in condition for appeal and respectfully traverses the Examiner's prior rejections. Claims 7-8 and 12-13 are cancelled without prejudice and no new claims are added. These changes are believed not to introduce new matter, and their entry is respectfully requested. The claims have been amended to expedite the prosecution and issuance of the application. In making this amendment, the Applicant has not and is not narrowing the scope of the protection to which the Applicant considers the claimed invention to be entitled and does not concede, directly or by implication, that the subject matter of such claims was in fact disclosed or taught by the cited prior art. Rather, the Applicant reserves the right to pursue such protection at a later point in time and merely seeks to pursue protection for the subject matter presented in this submission.

Based on the above amendment and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding rejections and withdraw them.

35 U.S.C. §101 Rejection of Claims

Claims 18 and 22 were again rejected under 35 U.S.C. § 101, as being non-statutory subject matter. Specifically, claim 18 as directed to a network system is asserted as being software per se. The Examiner argues that a network system is per se software. The Applicant disagrees with this conclusion. To eliminate any confusion the term "network" has been deleted as has the term "managed". Furthermore, claim 18 has been amended to make clear that the installation tool is installed on the host. The first element of claim 18 states, "a host in the operating computer system linked to a communications network, the host including a survey tool installed on the host for automatically gathering environment information and an installation tool installed on the host for transmitting the environment information over the communications network and for automatically installing systems management software on the host..." The host is a hardware component with an installed software tool. The Office Action cites that "the claim does not recite 'management software .. installed on the host'." The Applicant submits the claim now reflects such an installation thus making the host a component that is statutorily patentable. Withdrawal of the rejection is requested.

Rejection of the Claims under 35 U.S.C. §102(b)

Claims 7-8, 12, 18 and 23 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,009,274 by Fletcher et al. ("Fletcher"). Claims 7-8 and 12 are herein cancelled. In the Office Communication of October 9, 2007, the Examiner argues that the text at Col. 9, lines 17-29 and Col. 10, lines 58-60 of Fletcher, regarding the actions of an agent, read on the survey tool installed on the host as recited in claims 18 and 23. The Applicant disagrees.

The present invention involves communicatively linking an installation station with the host device and receiving at the installation station computing environment information for the host device. The installation station then transmits to and installs on the host an installation tool (script) configured for automatically surveying the computer environment. The survey script is executed on the network computer device to automatically create an output file defining a computing environment for the host device. The method continues with downloading an installation Daemon from the installation station onto the host device, and then using the installation Daemon to retrieve the output file and transfer a copy to the installation station. In response, the installation station acts to transfer the agent software to the host device. The installation Daemon automatically receives and installs the agent software on the host device. In this manner, environment information and installation of the agent software are automated functions that require no operator intervention for successful completion.

Fletcher appears to disclose methods and systems for updating software utilizing agents. The agents are in response to the Automatic Software Updating (ASU) server requests or directives to download software. The ASU can initiate an agent to gain version information but Fletcher does not disclose an automated survey script residing on the host to automatically convey environment data. See Fletcher col. 5, lines 5-10. These agents request and receive files for the host based on directions from the ASU. Id. col. 5, lines 35-45.

The present invention offers and claims an automated system for remotely monitoring and updating operating on a network system. Reconsideration is respectfully requested.

35 U.S.C. §103(a) Obviousness Rejection of Claims

Claims 1-4, were rejected under 35 U.S.C. §103(a) as being unpatentable over Fletcher. Claims 5, 14 and 16-17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Fletcher in view of Applicant Admitted Prior Art ("APA"). Claim 22 is rejected under 35 U.S.C. §103(a) as being unpatentable over Fletcher in view of U.S. Patent No. 6,434,532 by Goldband et al ("Goldband"). Finally, claim 25 is rejected under 35 U.S.C. §103(a) as being unpatentable over Fletcher in view of U.S. Patent No. 5,421,009 by Platt ("Platt"). Applicant respectfully traverses these rejections in light of the aforementioned remarks and respectfully requests reconsideration.

As previously discussed Fletcher is a host-based (ASU) system. This is distinct from the present invention which places many of the functions at the network computer device. The updated agent cited in col. 9, lines 17-29 of Fletcher is an agent that gathers data and requests a self-extracting file that includes an installer and the files to be installed. The "updated agent" of Fletcher does not teach or suggest the present invention of installing on the network computer device a survey script to monitor and convey back to the installer computer environment data from which the installer can act. The present invention empowers the network computer device rather than relying on a centralized system such as the ASU of Fletcher. For at least these reasons, the Applicant deems claim 1-4, 5, 14 and 16-17 patentable over Fletcher and over Fletcher in view of APA. Reconsideration is respectfully requested.

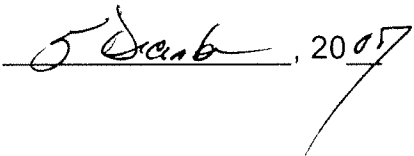
The Applicant also deems claims 22 and 25 to be patentable over Fletcher in view of, respectively, Goldband and Platt for at least the same

reasons presented above. Neither Goldband nor Platt resolve the deficiencies of Fletcher. Reconsideration is requested.


Conclusion

In view of all of the above, the claims are now believed to be allowable and the case in condition for allowance which action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is requested to contact Applicant's attorney at the telephone number listed below.

No fee is believed due for this submittal. However, any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

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Respectfully submitted,


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